

COUNTY OF YORK

MEMORANDUM

DATE: November 28, 2000 (BOS Mtg. 12/5/00)

TO: York County Board of Supervisors

FROM: Daniel M. Stuck, County Administrator

SUBJECT: Real and Tangible Personal Property Tax Exemption for the Running Man Recreation Association, Inc.

The Running Man Recreation Association, Inc. (RMRA) operates a swimming pool located in the Running Man subdivision. Paid memberships are available to the general public. RMRA has requested that the County support its effort to become exempt from property taxes. The current assessed value of the real property is \$15,000 and the resulting tax billed for calendar year 2000 is \$129. RMRA was not billed for any personal property taxes during calendar year 2000.

Real property owned by RMRA, and similar organizations, is assessed at its fair market value, if any. Factors considered in determining the value of such real property include restrictions placed on its use, transferability and the its ability to generate income. Real property dedicated solely for the use of subdivision property owners and their guest and not available for rent, lease or paid membership to the general public is considered to have no value beyond that which it adds to the individual lots in the subdivision. Therefore, no tax is assessed. Real property not dedicated solely for the use of subdivision property owners and their guest and is available for rent, lease or paid membership to the general public is considered to have value beyond what it adds to the individual lots in the sub-division. Therefore, property of this nature is taxed.

Exemption from local taxes requires approval by the General Assembly. Section 30-19.04 of the Code of Virginia (copy attached) deals with such exemptions. Pursuant to the code, the chairman of the legislative committee to which the matter is assigned shall, before the matter is considered by the committee, require either that the local governing body adopt a resolution supporting or refusing to support the exemption, or shall demand evidence that the local governing body refused to adopt such a resolution. The General Assembly is not required to act in accordance with the Board's resolution, and apparently may proceed to consider a bill to grant the tax exemption even if the Board has chosen not to adopt any resolution.

Subsection B of Section 30-19.04 requires that, before adopting such a resolution, the governing body advertise and conduct a public hearing and examine and consider a series of questions. The specific questions and RMRA's responses (in italics) are included below:

1. Whether the organization is exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code of 1954

Per the Internal Revenue Service, the RMRA is exempt from Federal income tax under Section 501(a) of the Internal Revenue Code as a Section 501(c)(7) organization. I am attaching a copy of the IRS ruling to this response.

- 2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property**

The RMRA has not been issued a license for serving alcoholic beverages by the Virginia Alcoholic Beverage Control Board, and we have no plans to seek such a license.

- 3. Whether any director or officer of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director or officer actually renders**

No member of the RMRA Board of Directors or any listed officer is compensated at this time, and we have no plans to make these paid positions. The Board of Directors and officers are all working on a volunteer basis.

- 4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in kind or other material services**

No part of the earnings (dues) of the organization inures to the benefit of any individual. Other than volunteer services provided by the Board of Directors, officers and swim team volunteers, none of the services to be provided by the RMRA are generated by funds received from donations, contributions, or local, state or federal grants. The swim team plans to have fund raising events, and will accept donations of swim team equipment or money for supplies. In addition, the RMRA anticipates some contributions in the form of landscaping services/materials from various sources in the Peninsula community.

- 5. Whether the organization provides services for the common good of the public**

The RMRA is not providing a service for the common good of the public per se. Membership in the RMRA is limited to residents of the Running Man subdivision, and as such we believe is providing a service for the common good of the residents of Running Man.

- 6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office**

No part of the RMRA activities involves carrying on propaganda. Nor will the RMRA attempt to influence legislation, or participate in, or intervene in, any political campaign on behalf of any candidate for public office. Our sole purpose is to provide a recreational facility for the residents of the Running Man subdivision in York County, Virginia.

- 7. No rule, regulation, policy, or practice of the organization discriminates on the basis of religious conviction, race, color, sex or national origin**

No rule, regulation, policy, or practice of the organization discriminates on the basis of religious conviction, race, color, sex or national origin.

8. The revenue impact to the locality and its taxpayers of exempting the property

We have no estimate of the revenue impact to the locality and its taxpayers of exempting the RMRA from property taxes. We presume it will be the tax impact of the real estate tax assessment of the land and buildings at the stated real estate tax rate. We will be providing revenues to the local economy in terms of payments to the pool management firm contracted to provide lifeguards and basic pool maintenance, payments to a swim team coach, purchases from local businesses for vending supplies, pool supplies, equipment, etc. In addition, we provide a safe alternative place for our children and community members to gather for recreation and fellowship.

9. Any other criteria, facts and circumstances which the governing body deems pertinent to the adoption of such resolution

You may view the RMRA by-laws, and detailed membership information at the following Internet address <http://rmra.homepage.com/>. Any other information you may consider necessary will be available at your request. In addition, we previously provided Mr. Matson of the York County Assessor's Office copies of the Running Man Recreation Association Articles of Incorporation, Association By-laws, Membership Requirements and Membership Agreement. In addition, we provided a copy of the determination letter from the Internal Revenue Service recognizing Running Man Recreation Association as a tax exempt organization under Section 501(a) of the Internal Revenue Code.

In addition, Section 30-19.04 requires that, if the local governing body supports the requested tax exemption, the resolution shall include a recommendation to the General Assembly for a specific classification and the assessed value and the amount of property tax for the property owned by the requesting organization. The classifications available are religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground. The classification which RMRA seems to most closely fit is public park and playground. Even though RMRA is open to members only, memberships are available to the general public.

Supporting this type of request for tax exemption may send a mixed message to the General Assembly and, more specifically, our delegation. The County has repeatedly asked that the state not erode the local taxing authority granted by the state code. Supporting an exemption for organizations otherwise subject to taxation may be seen as contrary to this position. As an alternative, the Board may wish to provide an annual contribution to the RMRA, and possibly to similar eligible organizations, equal to the amount of taxes collected for the preceding year. Such contributions would be subject to annual appropriation and would provide the Board the option of discontinuing the practice in the future. Approval of the request by the state would remove local control of the option for the exemption. As stated earlier, it should be noted that the General Assembly may grant the exemption even if not supported by the locality.

There are three other property owners (Marl Bank, Edgehill, and Queens Lake) with circumstances similar to RMRA. The total taxes billed to the four organizations for calendar 2000 was \$9,835. Queens Lake pays 69% of this amount.

In conclusion, there are three options available for dealing with RMRA's request that the County support its effort to become exempt. These options are:

1. Adopt a resolution supporting the request
2. Decline to adopt a resolution supporting the request
3. Decline to adopt a resolution supporting the request and provide a contribution equal to the taxes paid for the preceding year provided that the General Assembly does not approve the requested exemption

Proposed Resolution R00-204 has been prepared for the Board's consideration. If adopted, this resolution will state the County's support for the requested exemption. Once the Board has addressed this issue staff will prepare correspondence communicating the decision to RMRA and appropriate state offices.

Please let me know if you have any questions.

McReynolds/3700

Attachments

- Section 30-19.04, Code of Virginia
- Proposed Resolution R00-204